

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH AND GAME

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on March 13, 2001 at 3 P.M., in Room 3 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Edward Butcher (R)
Sen. William Crismore (R)
Sen. Pete Ekegren (R)
Sen. Eve Franklin (D)
Sen. Debbie Shea (D)

Members Excused: Sen. Jon Tester (D)
Sen. Jon Ellingson (D)
Sen. Bill Tash (R)

Members Absent: None.

Staff Present: Roberta Opel, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 107, 3/13/2001; HB 451,
3/13/2001; HJ 16, 3/13/2001
Executive Action: None

HEARING ON HB 107

Sponsor: REP. BILL EGGERS, HD 6, Crow Agency

Proponents: REP. CAROL JUNEAU, HD 85, Browning
Ira Newbreast, Chairman, Blackfeet Fish & Wildlife
Jeff Hagener, Director, Fish, Wildlife & Parks (FWP)

Opponents: None

Opening Statement by Sponsor:

REP. BILL EGGERS, HD 6, Big Horn County, presented HB 107 to the committee. The bill regards equal apportionment of federal taxes to Tribes for fish and wildlife restoration projects. Presently, the tribes are not receiving this apportionment. He stated that the bill, in its present form, had been re-drafted by **Bob Lane, Legal Counsel, FWP**. The bill further establishes a Native American Natural Resources Council to prioritize issues on each reservation such as the creation of a fish hatchery on the Big Horn River.

Proponents' Testimony:

REP. CAROL JUNEAU, HD 85, Browning, testified HB 107 is an equity and fairness issue.

Ira Newbreast, Director, Blackfeet Tribe Fish & Wildlife, stated HB 107 is necessary for all seven Montana Native American tribes. He cited areas to be targeted by additional monies including management of Montana wildlife and fisheries.

George Ochenski, representing the Confederated Salish-Kootenai tribes, Rocky Boy Reservation and the Montana-Wyoming Tribal Leaders Council, submitted testimony in support of HB 107.

EXHIBIT(fis57a01) Mr. Ochenski noted that due to what he described as short notice on the hearing, key Native American witnesses could not be present and he would be reading testimony on their behalf. Testimony from **D. Fred Matt, Chairman, Confederated Salish and Kootenai Tribes EXHIBIT(fis57a02)** and **Leland Top Sky, Director, Chippewa Cree Tribe Fish & Wildlife Department EXHIBIT(fis57a03)** was read to the committee by Mr. Ochenski.

{Tape : 1; Side : A}

Mr. Ochenski explained lines 7 and 8 of the bill authorize expenditure "up to 7%." The fiscal note, he said, states that "7% will be spent." This language clarification was worked out with the department, he noted.

Jeff Hagener, Director, FWP, testified HB 107 directs the department to use up to 7% of Montana's apportionment of Federal Aid in Sport Fish and Wildlife Restoration program funds for

grants to Montana's Indian tribes. The bill also appoints a tribal natural resources council. **EXHIBIT (fis57a04)**

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SEN. BILL CRISMORE asked **Mr. Ochenski** if there would be any non-tribal members hunting on tribal lands.

Mr. Ochenski stated that EXHIBIT 3 specifically addresses the non-tribal member deer hunting program. Decisions on how to manage game and allow hunting on tribal lands are made by the tribal council, he said.

SEN. CRISMORE further directed his question to **Mr. Newbreast**.

Mr. Newbreast stated he would not be able to speak for the Flathead Reservation. (The remainder of this testimony is almost inaudible).

SEN. PETE EKEGREN asked **Mr. Hagener** to clarify funding for one, , full-time state employee at a grade 16 level.

Mr. Hagener asked the committee to examine the flip side of the fiscal note for the answer.

SEN. MIKE SPRAGUE asked if there would be joint meetings during the implementation.

Mr. Hagener said the process would be evolutionary beginning with a designation of council members by individual tribes.

SEN. SPRAGUE asked if there would be a joint council of all the tribes.

Mr. Hagener stated that on page 2, section 2 of the bill, is an outline for the establishment of the federal natural resources council; nine council members with one member from each of the seven tribes and one indigenous, non-enrolled member plus a member of the department.

SEN. SPRAGUE said he understood that each member would have the responsibility to speak for their tribe but would they have any authority.

Mr. Hagener said it was his understanding that they would have both the authority and the responsibility to speak for their individual tribe.

SEN. SPRAGUE asked if the members would be recommended from their individual tribes with some authority to speak to the tribal government.

Mr. Hagener said the tribal council themselves would be required to examine, prioritize, and allocate funding.

SEN. SPRAGUE asked if he thought some of the funding would be for conflict resolution or for setting up habitat enhancement programs.

Mr. Hagener the monies are required for habitat enhancement use.

SEN. SPRAGUE wished tribal members in attendance success in their efforts.

Mr. Hagener said the department has been working with **REP. EGGERS** and lends full cooperation to his efforts.

SEN. SPRAGUE asked **Mr. Newbreast** if hunting seasons and quotas had been established.

Mr. Newbreast stated that hunting seasons had already been established although different tribes were in a different stages of evolution on how to establish these seasons and quotas. Each of the members of the Montana-Wyoming Tribal Fish and Wildlife Commission are appointed by tribal resolution with each representative acting as a director, he explained.

SEN. SPRAGUE endorsed the FWP 100th anniversary video which, he said, "offers a blueprint for the plight of Montana tribes."

Mr. Newbreast thanked FWP for their support and continued positive relationship.

SEN. AL BISHOP noted there could be eight tribes rather than seven, if the Little Shell is included.

Mr. Newbreast said the Little Shell do not have a reservation at this time. He stated the tribe may raise money and buy land but he had not discussed this issue with the tribe's chairman and was unsure, therefore, what they had planned.

REP. EGGERS stated that **SEN. BUTCHER** was correct. The federal government has not entered into an executive order recognizing

the Little Shell although he said he believed this determination was in the process. This could be a legal and factual reason, perhaps, to resist HJR 11, he told the committee.

SEN. SPRAGUE asked **Mr. Ochenski** if he would make copies of EXHIBIT 1, "1994-1998 Progress Report for State-Tribal Fish and Wildlife Agreement," available to all Senate Fish & Game committee members.

Mr. Ochenski said he would provide copies for each committee member.

Mary Vandenbosch, legislative staffer, asked **REP. EGGERS** if he would have difficulty with language on page 2, line 16 of the bill that recognizes eight tribes in Montana when currently there are only seven tribes.

REP. EGGERS stated that he did see this as a problem but explained that he was reluctant to include the Little Shell Tribe until they are recognized by the federal government.

SEN. ED BUTCHER asked if the legislature would be able to amend out and say simply, "each of the recognized tribes in Montana" noting how many tribes there are at that time.

REP. EGGERS replied that would be possible.

SEN. SPRAGUE said his recommendation would be to not return the bill to the House.

Closing by Sponsor:

REP. EGGERS said that the National Native American Fish and Wildlife Society provides thousands of dollars to Native American council members to be good fish and game stewards. He asked the committee for their support noting that if the bill did not pass, the tribes would consider litigation.

{Tape : 1; Side : B}

HEARING ON HJR 16

Sponsor: REP. DICK HAINES, HD 63, Missoula

Proponents: Janet Ellis, Montana Audubon
Jeff Hagener, Director, Fish, Wildlife & Parks

Opponents: Renee Evenson, representing the American Federation of
Agriculture

Opening Statement by Sponsor:

REP. DICK HAINES, SD 63, Missoula, testified HJR 16 was an effort to avoid the problem of unprotected exotic wildlife entering Montana. HJR 16 would establish a committee to discuss this issue with representatives from FWP, the Department of Livestock and Agriculture and the Department of Health and Human Services as well as groups from the pet trade industry. This interim group would evaluate current law and determine what other states are doing to address these concerns.

Proponents' Testimony:

Janet Ellis, Montana Audubon, testified HJR 16 would help determine which non-native species could be brought into Montana and would further set regulations for Montana's pet trade. The study represents a thoughtful, pro-active approach, she added.

Jeff Hagener, Director, Fish, Wildlife & Parks, testified in support of HJR 16. **EXHIBIT(fis57a05)**

Jeff Barber, representing the Montana Wildlife Federation and the Montana Chapter of the American Fisheries Society, testified in support of the study.

Dr. Arnold Gertonson, State Veterinarian, Department of Livestock, testified his department would work cooperatively with FWP on the bill.

Informational Testimony:

REP. DICK HAINES, HD 63, submitted informational testimony from FWP regarding a HJR 16 Study Committee Selection.

EXHIBIT(fis57a06)

Opponents' Testimony:

Renee Evenson, Montana State Coordinator for the American Federation of Aviculture and past-president of the Great Falls Cage Bird Society and the Montana Exotic Bird Club, urged the committee to vote against HJR 16. **EXHIBIT(fis57a07)**

Questions from Committee Members and Responses:

SEN. SPRAGUE asked **Miss Evenson** if she understood the workings of a Joint Resolution.

Miss Evenson answered that a JR was introduced into both Houses at the same time.

SEN. SPRAGUE explained that a Joint Resolution is a resolution of both the House and Senate. At the end of each session, the Resolutions are entered onto a list of priorities. This list is then voted on by individual members to set a priority (three studies are generally funded) and, then of those priorities, legislators vote based on their priorities. Each priority will be funded like other studies, he said. If this particular study is chosen, **Miss Evenson** would be asked to participate in related hearings. Recommendations are then made to the next session as a bill proposal.

SEN. BISHOP stated that page 2 of the bill, lines 10-14, recognizes cooperation efforts among several state agencies. He suggested **Miss Evenson** might be included in the study.

Mary Vandebosch stated that HJR 16 instructs the executive branch to conduct the study. The process **SEN. SPRAGUE** mentioned applies to interim study resolutions that are staffed by interim legislative committees, she explained. The decision is ultimately made by the executive branch.

SEN. TASH asked where this information was listed in the bill.

Mary Vandebosch replied the information was located in both the title and the beginning of the bill on page 1, lines 26 through 28.

SEN. BUTCHER shared a personal anecdote that he had an alligator in his dorm room when he was a college freshman. (laughter).

Closing by Sponsor:

REP. HAINES stated that it was not the intent of his bill to send shockwaves throughout the pet industry. **REP. HAINES** referenced EXHIBIT 6 from FWP; the HJR Study Committee Selection and urged those with concerns to participate in the process.

{Tape : 2; Side : A;}

SEN. BUTCHER asked if the study could include wolves. (laughter).

HEARING ON HB 451

Sponsor: **REP. GEORGE GOLIE, HD 44, Great Falls**

Proponents: Jeff Hagener, Director, Fish, Wildlife & Parks, FWP

Opponents: None

Opening Statement by Sponsor:

REP. GOLIE, HD 44, Great Falls, presented HB 451 to the committee noting that the bill is a result of discussions with **REP. JIM SHOCKLEY**, the department, himself, and disabled hunters on behalf of disabled hunters. All of these individuals were considered during the drafting of the bill. The bill would place in statute new regulations regarding disabled hunters hunting from a vehicle.

Proponents' Testimony:

Jeff Hagener, Director, FWP, testified in support of HB 451.

EXHIBIT(fis57a08)

Opponents' Testimony:

None

Questions from Committee Members and Responses:

SEN. WELLS asked if there would be a certified obstacle course to determine who is disabled. (laughter).

REP. GOLIE stated that all language and definitions within the bill came from disabled people themselves.

REP. BILL TASH stated he was surprised that on page 3, line 5, existing law allows a person experiencing blindness, who is certified by the department, to be issued a regular resident deer and elk license.

SEN. BUTCHER said he had seen quite a few sightless hunters on his property.

REP. GOLIE said that was current law.

SEN. SPRAGUE noted that some people are deemed legally blind even though they have some degree of vision.

SEN. TASH said these individuals, then, could hunt with some assistance as disabled hunters.

SEN. WELLS said there is a designated shooter noted in the bill.

SEN. BISHOP asked what the language, "not including turkey" referred to within the bill.

REP. GOLIE answered that a conservation license alone does not constitute a turkey license. A permit is also needed, he said.

Bob Lane, legal counsel, FWP, replied that was the right answer.

SEN. SPRAGUE asked if the department considered a staff the same as a cane.

Mr. Lane stated disability criteria states that an individual needed to be dependent on a wheelchair, crutch or cane. If a staff is something an individual is dependent on, it would be included within those terms, he explained.

Closing by Sponsor:

REP. GOLIE said the disabled population brought forward most of the language within the bill. This legislation will allow more disabled people to hunt in Montana, he concluded.

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. MIKE SPRAGUE, Chairman

ROBERTA OPEL, Secretary

MS/RO

EXHIBIT (fis57aad)